

**BEECHER, BEECHER, HOLMES & RATHERT  
LAWYERS**

W. L. BEECHER (1891-1976)  
W. LOUIS BEECHER  
WENDELL A. HOLMES  
JOHN W. RATHERT  
HUGH M. FIELD  
JON FISTER  
JOHN R. WALKER, JR.  
JOHN W. HOLMES  
RICHARD R. MORRIS  
CARTER J. STEVENS

COURT SQUARE BUILDING - SUITE 300  
620 LA FAYETTE STREET  
P. O. BOX 178  
**WATERLOO, IOWA 50704**

TELEPHONE (319) 234-1766  
TELECOPIER (319) 234-1225

November 3, 1988

CERTIFIED MAIL  
P 678 340 482

U.S. Environmental Protection Agency  
Region VII  
Attention: Ms. Lynn Slugantz  
RCRA/IOWA  
726 Minnesota Avenue  
Kansas City, Kansas 66101

re: Pries Enterprises, Inc.  
Independence Iowa  
Docket No. VII-88-H-0034

Dear Ms. Slugantz:

Enclosed please find the Answer of the Respondent in the above captioned case. We respectfully request an informal conference in the event the Agency chooses to proceed.

Very truly yours,

*John W. Holmes*

for  
BEECHER, BEECHER, HOLMES & RATHERT

jwh/cw  
enclosure

RECEIVED



R00050196  
RCRA Records Center

IC

1. Paragraph 1 is admitted.
2. Paragraph 2 is admitted.
3. Paragraph 3 is denied. Respondent admits manufacturing operations include metal forming. Respondent specifically denies manufacturing operations includes cleaning and painting of metal. Respondent further admits that in the metal forming operation it uses a caustic soda flake such as "Caustic Soda--Diaphragm No. 2 Flake" manufactured by Occidental Chemical Corporation and containing largely (96 percent by weight) sodium hydroxide (as NaOH) in terms of hydroxide alkalinity. Respondent denies for lack of information sufficient to form a belief that such caustic soda flake constitutes a hazardous waste. Respondent alleges that when properly treated the solid waste from this waste stream is not a hazardous waste within the meaning of applicable law.
4. Each and every allegation contained in Paragraph 4 is denied. During the period from May through December 1987, Respondent was attempting to install and implement a process line including a waste water treatment

unit for the painting of aluminum extrusions. The line was not successful. The waste water treatment unit was also unsuccessful. Neither the design of the process line nor the design of the waste water treatment unit were correct. Both from the standpoint of the painting, as well as from the standpoint of waste water treatment, the apparatus installed and the overall design was a failure.

5. Each and every allegation contained in Paragraph 5 is denied. During the period from approximately May 1987 through December 1987, various quantities of the cleaning and the rinsing solutions were stored in drums. Because of the erroneous design of the system, they were mixed together instead of being kept separate from each other.

6. Paragraph 6 is admitted.

7. Paragraph 7 is admitted.

8. Paragraph 8 is admitted.

9. Paragraph 9 is admitted.

10. Each and every allegation contained in Paragraph 10 is denied. Respondent specifically denies that on August 14, 1987, or thereafter it was "a new hazardous waste management facility" within the meaning of Section 3010(a) of RCRA, 42 U.S.C. Section 6930(a) and 40 C.F.R. Section 270.10(f). Respondent has been in the metal forming business since approximately 1976. The facilities which would have been new facilities for treatment, storage and disposal of hazardous waste failed to function. The employees responsible were relieved on about December 27, 1987. This included two individuals. For reasons of confidentiality, they will not be named in this Answer but will be referred to hereinafter as Mr. Smith and Mr. Jones.

11. Each and every allegation contained in Paragraph 11 is denied. Respondent does admit that Mr. Jones filled out and submitted a printed form. Many of the statements on the form are either incorrect or erroneous.

12. Paragraph 12 is admitted.

13. Each and every allegation in Paragraph 13 is denied.

14. For answer to Paragraph 14, Respondent states that the barrels which were on hand on about February 11, 1988, and which are alleged to contain hazardous waste contained chemicals which Mr. Jones had incompletely and erroneously intermixed but that the same did not constitute either solid waste, since the drums contained much water and had not been properly de-watered, nor were they treated wastes within the meaning of Section 3005 of RCRA, 42 U.S.C. Section 6295 and 40 C.F.R. part 270.

#### COUNT II

15. Each and every answer contained in Paragraphs 1 through 11 above are hereby incorporated and realleged.

16. Paragraph 16 is admitted.

17. Each and every allegation contained in Paragraph 17 is denied.

18. Each and every allegation contained in Paragraph 18 is denied.

19. Each and every allegation contained in Paragraph 19 is denied.

20. For answer to Paragraph 20, Respondent denies it was storing hazardous waste without a hazardous waste identification number.

#### COUNT III

21. The allegations contained in Paragraphs 1 through 11 of this Answer above are hereby incorporated and realleged.

22. Paragraph 22 is admitted.

23. Each and every allegation contained in Paragraph 23 is denied.

24. Each and every allegation contained in Paragraph 24 is denied. The xylene found in the 55-gallon barrel in the paint room was being used to clean spray-paint guns when those guns were attempted to be used to paint aluminum extrusions.

25. Each and every allegation contained in Paragraph 25 is denied.

COUNT IV

26. The allegations contained in Paragraphs 1 through 11 above of this Answer are hereby incorporated and realleged.

27. Paragraph 27 is admitted.

28. Each and every allegation contained in Paragraph 28 is denied. Following the inspection on February 11, 1988, Respondent has attempted to treat the contents of the forty-nine (49) drums (hereinafter referred to as Group A) and to otherwise determine how to treat and to dispose of properly the materials from the failed attempt to establish a paint line and related apparatus and equipment. It was determined that the original forty-nine (49) drums had to be treated since the mixing of the chemicals was causing the barrels to rust. Forty-two drums were emptied back into the tanks and the company re-hired a former employee to attempt to properly empty the tanks and treat the chemicals. These efforts resulted first in a forty (40) barrel shipment (hereinafter Group B) to chemical waste management in Calumet City, Illinois, on about June 17, 1988. [Copies of the manifest of that shipment have been sent to Region VII office in Kansas City, Kansas.] Second, the process has now been continued and completed; and a shipment of approximately forty-four (44) drums more is being sent November 4, 1988 (hereinafter Group C). All of the contents of the barrels in Group A are contained in the

contents of the barrels referred to as Group B or Group C. All of the tanks are empty. All of the sludge has been de-watered. As of November 4, 1988, all of the barrels of sludge will have been shipped.

29. For answer to Paragraph 29, Respondent states that Sections 264 and 265 would apply if Respondent had been able to implement its intended plan. Since the employees who were responsible and who should have prepared such manuals and conducted such training were, in fact, the employees who failed to do it, failed to understand what was required, failed to adequately carry out their duties, there was no one for Respondent who could do these things. Since they were relieved, Respondent has not attempted to go forward with anything except cleaning up what was left after Jones and Smith were relieved of their duties. Accordingly, the requirements of 264.16 and 265.16 of 40 C.F.R. are inapplicable on the facts of this case.

30. For answer to Paragraph 30, Respondent realleges each and every allegation contained in Paragraph 29 above.

31. Respondent denies each and every allegation contained in Paragraph 31.

#### COUNT V

32. The allegations contained in Paragraphs 1 through 28 above of this Answer are hereby incorporated and realleged.

33. Paragraph 33 is admitted.

34. Each and every allegation contained in Paragraph 34 is denied.

35. Each and every allegation contained in Paragraph 35 is denied.

#### COUNT VI

36. The allegations contained in Paragraph 1 through 28 above of this Answer are hereby incorporated and realleged.

37. Each and every allegation contained in the answer from Paragraph 29 above is reincorporated and realleged in answer to Paragraph 37.

38. Each and every allegation contained in Paragraph 38 is denied. Respondent did make arrangements with and did contact local authorities and organizations and familiarize them with the planned operations of the Respondent.

39. Each and every allegation contained in Paragraph 39 is denied.

COUNT VII

40. The allegations contained in Paragraphs 1 through 28 above of this Answer are hereby incorporated and realleged.

41. Each and every allegation contained in Paragraph 29 of this Answer above is hereby incorporated and realleged in answer to Paragraph 41.

42. Each and every allegation contained in Paragraph 42 is denied.

43. Each and every allegation contained in Paragraph 43 is denied.

COUNT VIII

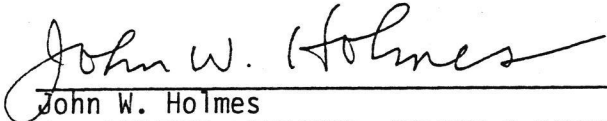
44. The allegations contained in Paragraphs 1 through 28 above of this Answer are hereby incorporated and realleged.

45. Each and every allegation contained in Paragraph 29 above is incorporated and realleged in answer to Paragraph 45.

46. Each and every allegation contained in Paragraph 46 is denied.

47. Each and every allegation contained in Paragraph 47 is denied.

WHEREFORE, Respondent respectfully requests that the complaint be dismissed at the Petitioner's cost.

  
John W. Holmes  
for BEECHER, BEECHER, HOLMES & RATHERT  
620 Lafayette Street, P.O. Box 178  
Waterloo, Iowa 50704  
Attorneys for Respondent